Building Integrity and Reducing Corruption in Defence

A Compendium of Best Practices

CONTENTS

Chapter 7
Defence Procurement

Defence procurement is an integral part of two fairly distinct processes:

1. The process of acquiring new defence capabilities, e.g. through introduction of more advanced weapon systems; or
2. The process of maintaining existing capabilities through provision of spare parts, fuel, logistics services, etc.

In lacking integrity of organisations, procedures and individuals involved, both of these processes are prone to corruption. This chapter focuses mostly on the first process for a number of reasons:

- It usually involves larger amounts of money;
- Linking defence needs to actual procurement is far from trivial;
- It often involves advanced technologies and, respectively, there are a handful of potential providers;
- Procurement options are even more limited when security of supply or other national security considerations come into play;
- The statistics on costs is limited, hard to attain or non-existent.

As a result of these and other reasons, defence acquisition involves higher corruption risks. For example, consistently more than half of the cases covered by the Defence Anti-Corruption Digest[1] relate to international acquisition of new weapon systems and equipment. Notwithstanding the focus of acquisition, most of the findings and the recommendations in this chapter are applicable also to procurement within the process of maintaining existing capabilities.

Studies on procurement-related corruption often focus on contractual issues, i.e. this phase of the acquisition process when public officials prepare, sign and manage contracts with suppliers of defence equipment and services. However, in order to reveal the mechanisms of corruption, one needs to examine the acquisition process comprehensively and to develop corruption reduction measures respectively.

[1] This digest is published regularly by Transparency International. See: www.defenceagainstcorruption.org/news/digest-navigationmenu-111.

Integrity of the Acquisition Process

Defence acquisition is the process of adding new or enhancing existing defence capabilities, in particular when that involves insertion of new technologies. Box 7.1 provides a definition of the scope of the term and delineates three major areas of acquisition activities.

Key for reducing the potential for procurement-related corruption is the integrity of the decision-making process. Decision making has to be regulated in a way that assures procurement decisions and actual procurements clearly relate to defence policy objectives and account for fiscal and other resource constraints. Regulations have to provide for a clear causal link from defence objectives to procurement.

Box 7.1. Scope of Defence Acquisition

The term "defence acquisition" covers a wide range of disciplines and tasks that can essentially be broken down into three broad areas of activity:

- Deciding what to acquire;
- Deciding how to acquire it;
- Acquiring it.

Deciding *what to acquire*, on the surface a simple task, is both far from trivial and key to the overall success of an acquisition project. Defence budgets, although usually among the larger components of public spending, are rarely sufficient to cover all defence requirements and acquisition projects must be carefully prioritised in order to assemble an overall defence programme that is as comprehensive and as balanced as possible (and, of course, individual projects must be properly managed to ensure that they represent good value for money and an appropriate use of defence resources). Close examination of competing requirements and creative thinking about the means to address them are thus essential for successful acquisition; investment in these activities will help to reduce project risk and increase the overall chance of project success.

Deciding *how to acquire* equipment and/or services is usually achieved through the preparation of an acquisition strategy, a formal document that records and justifies the various decisions taken. Once again, investment here will help to reduce risk and raise the chances of project success. The practice of actually *acquiring* the equipment and/or services, supporting them through their in-service life and eventually disposing of them is often broken down into a series of phases to make the overall task more manageable and to introduce points at which the project can be reviewed and decisions about its future taken. This is known as an acquisition cycle.

These three areas of activity are interrelated and will not necessarily take place sequentially as their presentation in the form of a list suggests. There is much benefit in including activities aimed at identifying and clarifying what is to be acquired within the acquisition cycle itself.

Source: Anthony Lawrence, "Acquisition Management," in *Defence Management: An Introduction* (Geneva: DCAF, 2009), 156–157.

First, policy makers and planners have to clearly state mission needs. This statement[2] must justify in rigorous analytical terms the need to resolve a shortfall in defence capabilities or to explore a technological opportunity for performing defence missions more efficiently or effectively. It must be derived from rigorous mission analysis, i.e., analysis of current and forecasted mission capabilities in relation to projected demand for services,[3] and must contain sufficient quantitative information to establish and justify the need. Extensive performance analysis should be completed and capability shortfalls should be identified before preparing the statement. The statement may also include an assessment of the impact if the mission need is not provided, as well as its criticality, timeframe and long-range resource planning estimates.

Second is the definition of operational requirements. It elaborates qualitative and quantitative parameters that specify the desired capabilities of a system and serve as a basis for determining the operational effectiveness and suitability of a system prior to deployment.

Third, and only after the first two steps are well understood and documented, one may transition to defining technical requirements and standards and proceed to procurement and the respective budget planning. The definitions of mission needs and operational requirements serve also to define some of the main criteria for assessment of bids and, respectively, for selection of suppliers, as well as in assessing actual deliveries of defence equipment, systems and services. Box 7.2 presents the experience of the Ministry of National Defence of Poland in preventing procurement-related corruption.

The preservation of causality among the steps in the procurement process is vital for the integrity of the decision-making process. It also provides for independent assessment[4]—e.g. prior to the commitment of considerable public resources—as well as for auditing the results and the implementation of acquisition decisions, either by responsible state organisations or by independent monitors.

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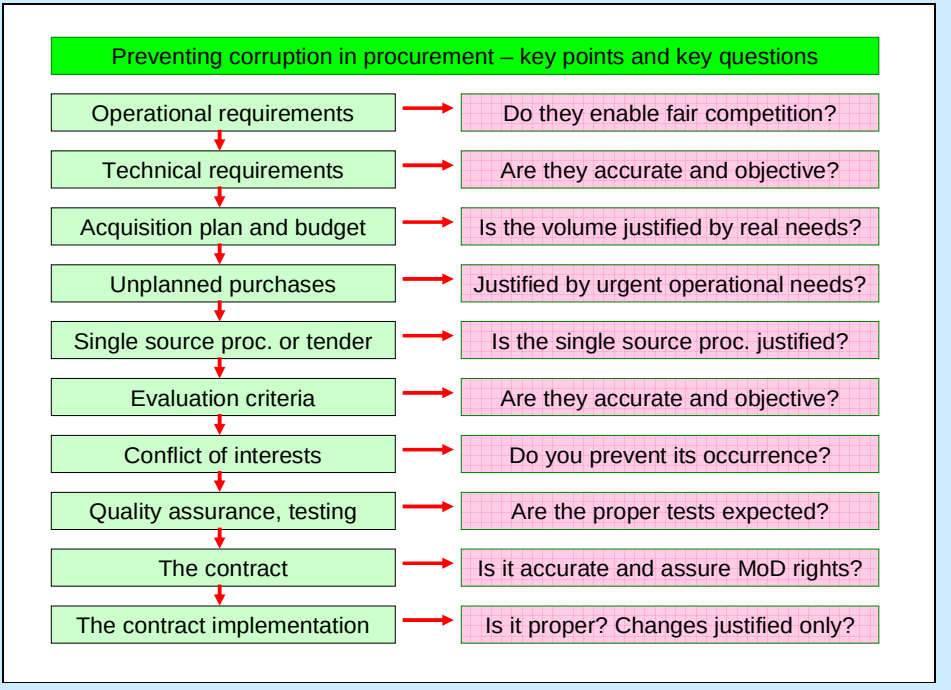
2 The US Department of Defense and other US federal agencies are required to produce an official document under the title "Mission Need Statement." See for example: Federal Aviation Administration, "Mission Analysis. Appendix B: Mission Need Statement Template," http://fast.faa.gov.

3 In defence, this is usually part of a comprehensive review of defence policy, e.g. a "Strategic Defence Review" or a "Quadrennial Defence Review."

4 An assessment that is independent from the one made by the proponents of a particular acquisition decision. It may be performed by a specially designated team, internally for the defence establishment, by another state organisation or by an independent monitor. For the latter, see the box on "Defence Integrity Pacts" below.

Box 7.2. Preserving the Integrity of the Defence Procurement Process and Preventing Corruption in Poland

Defence procurement is *the* area of high corruption risk. There are several key points in the process, which should be tackled with special attention to reduce this risk to a minimum. They exist during the preparatory stage, during the tender or negotiation, as well as in the implementation of the contract. It is necessary to address specific issues, for instance by asking particular questions, in all of the key elements. The most important of them are listed below. In the practice of the Polish Ministry of National Defence it is the duty of the Anti-corruption Procedures Bureau to raise these questions, prepare opinions and suggest solutions.



Preparatory stage

Operational requirements for new arms: Do they enable fair competition in the future? Are they based on real operational needs or simply on something seen in an advertising brochure?

Technical requirements of new arms: Are they based on operational requirements or are they simply copied from a technical specification of a specific product? Are they accurate and objective? Do they enable fair competition? If not, is that shown clearly and justified?

Planning and budgeting: Is the acquisition plan prepared for buying capabilities and systems or isolated items only? Is the volume of the purchase justified by real needs? Are the funds secured for the whole project, for upcoming years as well? Are the unplanned purchases reliably justified by real urgent operational needs?

Proceedings of procurement

Competitiveness: Is the procedure competitive, particularly the tender process? If not, can a single source procedure or limited tender be justified? Is the procedure as competitive as possible?

Evaluation criteria, documentation: Are they clear and accurate? Are they fair for all competitors? Is the weight of the objective criteria (such as price or life cycle cost) bigger than the subjective ones (such as additional capabilities)? Is the whole tender documentation clear and objective?

Conflict of interests: Have the tender committee members, as well as the other officials participating in the preparatory or implementation stages, identified any relationships with the potential bidders that can be regarded as a conflict of interest? Did they sign a declaration confirming no conflicts of interest? If so, how was this verified?

Tender committee works: Has the committee worked as it was set out and agreed in the documentation?

Contract and its implementation

Quality assurance, testing: Are the proper (objective and based on reliable methodology) tests expected? Is the quality assurance process expected in contract implementation?

Contract draft and final contract: Is it accurate and does it assure MoD rights?

Contract implementation: Is the contract implemented as it was signed? Are changes or amendments to the contract justified?

The integrity of the decision making process is key for assuring transparency of the process. There have been cases when, as "a sign of transparency," bids are open in front of TV cameras, while at the same time tender specifications are written in a way that strongly favours a particular supplier or even eliminates all of its competitors.

Additional measures to guarantee transparency of defence procurement include:

- Publicly available and highly visible defence policy documents that provide clear, consistent and credible guidelines on defence modernisation;
- Advanced notification of potential suppliers, including companies in the national defence industrial base, on forthcoming acquisitions and anticipated requirements;
- Open competitive bidding, e.g. through the use of the European Bulletin Board (EBB) on Defence Contracts Opportunities,[5] maintained by the European Defence Agency;
- Use of life-cycle costs, instead of just up-front costs, in acquisition planning and in comparing the bids of competing suppliers;[6] and

[5] See www.eda.europa.eu/ebbweb.

- Rigorous risk assessment and transparent risk management.

Box 7.3 lists a number of negative consequences, including high corruption risks, as a result of the lack of transparency in defence procurement.

Defence establishments and parliamentarian committees that see gaps in the process for defence procurement and embark on enhancing its integrity should consider the implementation of the international standard ISO 15288[7] and the related NATO publication AAP-48. NATO has decided to follow ISO/IEC 15288 in dividing the whole system life cycle into six stages:

1. Concept
2. Development
3. Production
4. Utilisation

Box 7.3. Consequences of the Lack of Transparency in Defence Procurement

Loosely defined or overly ambiguous arms procurement policies, as well as highly confidential procurement processes regularly lead to:

- Insufficient examination of the rationale for weapons systems procurement;
- Inefficiencies in government decisions with unhealthy consequences for national and regional security;
- Apprehension in neighbouring countries;
- Corruption in arms procurement and in all kinds of military-related procurement decisions; and
- Serious damage to public confidence in the armed forces, which may be discredited and subjected to unnecessary controversies.

Source: Hans Born, et al., *Parliamentary Oversight of the Security Sector: Principles, Mechanisms and Practices*, 6th edition (Lausanne: Inter-Parliamentary Union and the Geneva Centre for the Democratic Control of Armed Forces, 2007), 173.

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6 To guarantee comparability of life-cycle cost estimates and efficient benchmarking, it is recommended to adhere to common cost models. See: *Code of Practice for Life Cycle Costing*, RTO-TR-SAS-069 (Paris: NATO Research and Technology Agency, September 2009); *Methods and Models for Life Cycle Costing*, RTO-TR-SAS-054 (Paris: NATO Research and Technology Agency, June 2007); and *Cost Structure and Life Cycle Costs for Military Systems*, RTO-TR-058 (Paris: NATO Research and Technology Agency, September 2003).

7 See: ISO/IEC 12207:2008, "Systems and Software Engineering – System Life Cycle Processes," edition 2 (International Organization for Standardization, 2008).

5. Support
6. Retirement.

Each stage represents one essential period of the life cycle of a defence system. The partitioning of the system life cycle into stages is based on the practicality of doing the work in small, understandable and timely steps. Stages, in addition, help address uncertainties and risk associated with cost, schedule, general objectives and decision making. Each stage has a distinct purpose and contribution to the whole life cycle. The transition between stages uses decision gates and entry/exit criteria.

Thus application of ISO 15288 and AAP-48 provides a common and integrated process framework for systems engineering and project management and allows the integration of project management disciplines and technical processes across the full life cycle and transparent interaction between participating organisations.

Structuring the life cycle of a defence system in this manner also provides for rigorous parliamentarian oversight of defence procurement. Box 7.4 presents as an example the procurement oversight as exercised by the Dutch Parliament.[8] It can be admitted that the involvement of parliament slows down the procurement process but, at the same time, it contributes to the integrity and greatly enhances the transparency of the decision-making process, thus strongly reducing the corruption potential of defence procurement.

Of particular concern is the corruption potential in offset arrangements related to defence procurement, treated in the following chapter of this compendium.

Integrity of Participating Organizations

In addition to process integrity, organisations both on the demand and the supply side of defence procurement must have integrity in order to reduce corruption risks.

This chapter examines the demand side, i.e. the organisation of defence ministries and agencies responsible for defence procurement, and the requirements of governments to defence contractors. Chapter 20 is dedicated to the supply side, i.e. the efforts of the defence industries and their associations to establish and enforce integrity standards on an international scale.

There are no generally valid models for organising defence acquisition. One general rule is that the acquisition process needs to be well coordinated with other core defence planning and management processes. Another feature of good organisational design is the clear delineation of required competencies, decision making authority

[8] For details set in an international comparative context see: Willem F. van Eekelen, *The Parliamentary Dimension of Defence Procurement: Requirements, Production, Cooperation and Acquisition*, Occasional Paper No. 5 (Geneva: Geneva Centre for the Democratic Control of Armed Forces, 2005).

Box 7.4. Parliamentarian Oversight of Defence Procurement: The Netherlands

The Netherlands has a long tradition and practice of strict parliamentary oversight over defence procurement. In principle, all procurement decisions exceeding 25 million euros have to pass through parliament. The vehicle for this is the so-called acquisition procedure. The government (in practice, the State Secretary for Defence who has defence materiel in his portfolio) sends a letter chosen out of four types—A, B, C or D—depending on the phase of the acquisition. Without going into details, the different phases basically go from the requirement for a new weapon system (or a successor to a present one) to a concrete proposal to buy system X from producer Y. Parliament is in a position to influence decisions at every phase of the acquisition process. So, when the government stipulates a need for replacement or acquisition (or suggests numbers of systems to be acquired) parliament may oppose or amend this. The final procurement decision (the "go ahead") may also be opposed or amended, although in practice this does not often happen. Most of the time government intentions during the entire process are influenced by the four letters—A, B, C and D—which are discussed in parliament.

For major projects exceeding 100 million euros, a special procedure has been set up ("Big Projects") involving even more detailed and frequent reporting to parliament. A typical example of this is the involvement of the Dutch government in the development phase of the Joint Strike Fighter, an American successor to the F-16. But there are other major projects, e.g. the Air Mobile Brigade. All in all, it seems that in the Netherlands the present situation is by and large judged to be satisfactory. There are discussions about the financial threshold and the wisdom of detailed parliamentary scrutiny of the sometimes very technical process. In this framework, questions are raised on the quality and independence of government information and the desirability of "counter-evidence," e.g. by an independent defence institute. Finally, the role of industry and lobbyists and their access to defence committee members is often discussed. However, no major incidents have occurred in this respect.

Source: Jan Hoekema, former Member of Parliament, the Netherlands, 2002, as quoted in Hans Born, et al., *Parliamentary Oversight of the Security Sector* (2007), 174.

and oversight responsibilities. Box 7.5 presents an understanding of acquisition competencies and stakeholders that is common for countries with well established defence governance and democratic control of defence. For post-totalitarian defence establishments, however, it is often problematic to delineate the respective competencies and to provide and coordinate the necessary expertise so that real decision makers are well known, and the decision-making process is transparent.

Of interest in that respect is the experience of Bulgaria. In autumn 2009, the minister of defence of Bulgaria, Mr. Nicklolay Mladenov, proposed amendments to the country's Law on Defence and Armed Forces, which limited his own authority in defence procurement. According to these amendments, the minister may decide on acquisitions of up to 25 million euros. For a procurement valued between 25 and 50 mil-

Box 7.5. Acquisition Competencies and Stakeholders

There are broadly four categories of people—or stakeholders—involved in defence acquisition. Firstly, there are those *who decide upon the requirements* for the equipment and/or services to be acquired. Effective requirement setting does not take place in a single moment but over a period of time and study during which the requirement is gradually clarified and elaborated in greater detail. For example, an initially broad requirement for a capability to destroy a potential enemy's main battle tanks might, through examination of the options available, be narrowed down to a requirement for a portable anti-tank missile system and eventually translated into a detailed specification describing the exact performance required. The task of implementing and managing this period of time and study—and thus defining the requirement—does not necessarily belong to a single agency but can be transferred from one group to another as the study deepens. However the task is allocated, one especially important stakeholder in this category is the user – the representative of the armed forces who is responsible for elaborating the requirement as seen by those who will eventually operate the equipment or make use of the services acquired. Clearly, the user has the expert knowledge of how military systems are employed in practice and, therefore, what sort of capability is required to prosecute a given military task. However, as will be seen, this does not necessarily make the user the best person to decide on equipment solutions to meet the capability requirement, or to manage the full acquisition process. The user community—the armed forces—will generally take the lead in the earlier stages of requirement setting but the later stages are often better handled by acquisition specialists. These form the second category of stakeholder.

Acquisition specialists will usually be responsible for managing the bulk of the acquisition project: specifying the detailed requirements, contracting with suppliers, ensuring delivery of the required equipment and/or services, managing through life support and arranging for final disposal. Because acquisition can be very complex, many nations have found it beneficial to establish departments or agencies specifically tasked with this role and to cultivate acquisition management as a career specialisation. There are many advantages to this approach, which fosters the development and sharing of acquisition expertise on both an individual and a corporate basis, while freeing the user to concentrate on core military business. More than this, however, managing an acquisition project requires that financial responsibility—the obligation to spend public funds wisely—should be delegated to the *acquisition manager* and executed through the proper employment of the budget allocated to the project. This raises an important point of principle: that the user function is best separated from the financial function. This is because the user, for understandable and perfectly justifiable reasons, tends to seek out the best technical solution to a particular requirement, whereas the wider interest of the defence establishment, not to mention governments, parliaments and taxpayers, is that a balance is struck between equipping the armed forces as well as possible and the correct spending of public funds. This in turn requires that a more neutral actor—the acquisition manager—should be entrusted with selecting the best solution to resolve the tensions that sometimes exist between these two demands.

The third category of stakeholder is made up of *those who will oversee and scrutinise* acquisition projects, usually members of the defence establishment's senior leadership. The final

category of stakeholder is the *external agencies* that have the means to supply the equipment and/or services to be acquired. They will usually be private businesses but this category may also include other government agencies or other governments.

Source: Lawrence, "Acquisition Management" (2009), 157–159.

lion euros, the Ministry of Defence needs prior authorisation by the Council of Ministers (the Cabinet), and for cases above the threshold of 50 million euros, the Council of Ministers must get prior parliamentarian approval.

Even when not all of these competencies are available, governments have at their disposal instruments to increase organisational integrity and reduce procurement-related corruption risks. Box 7.6 provides an example from the experience of Sierra Leone, which is also considered good practice.

Box 7.6. Fighting Corruption in Procurement

Abdul Tejan Cole, commissioner of the Anti Corruption Commission (ACC) in Sierra Leone, has launched an aggressive agenda aimed at strengthening transparency and accountability within all ministries, departments and agencies of Sierra Leone. The ACC was established to lead the fight against corruption, recognizing that public actors and ministries are the first line of defence. Initially, nine offences were defined as corrupt but in September 2008 the new anti-corruption law expanded corruption offences to twenty-two. Procurement offences, including actions within the bidding process, are now covered by the anti-corruption law. Previously, decisions to make procurement awards often resulted in flawed procurements and the deputy ministers responsible for procurement decisions could not be prosecuted. Corruption in procurement is recognized worldwide as a significant issue. Conflict of interest is now an offence against the law. And any breach of the code of conduct results in disciplinary action. Public officials are also required to formally disclose all assets.

A preference is now in place for trials by judge rather than jury as the commissioner notes that it is easier to successfully bribe within a group of twelve than to bribe a judge. Sierra Leone now has two judges that specialize in corruption. Also, minimum thresholds for sentencing are now in effect. This avoids previous problems with sentences sometimes resulting in only a warning.

The UN Convention provisions have been domesticated into the national law. This strengthens the fight against corruption. Whistleblower protection has been dramatically improved under the current law. Whistleblowers now have protection under the law and are entitled to 10% of the money recovered based upon success of information, prosecution and conviction. Free telephone access to a hotline has been established. Potential whistleblowers are reminded that frivolous accusations will result in prosecution of the false reporter.

For more information on the efforts of the ACC, visit their website at www.anticorruption.sl.

One more instrument that governments can use to increase integrity of procurement is to establish requirements towards implementation of ethics standards by defence suppliers. Box 7.7 presents US defence regulations, which have been enhanced considerably in 2009.

Integrity of Individual Behaviour

No measures to counter procurement-related corruption will be fully effective if the individuals involved lack integrity. Countries often attempt to enforce both "hard" and "soft" measures in attempts to reduce corruption risks related to defence procurement.

Hard measures are used to criminalize conflicts of interest and actual acts of bribery – directly or through intermediaries. Regulations on conflicts of interest of defence officials cover the period of the actual procurement, as well as prior involvement of individuals with defence suppliers and potential involvement with contractors for a certain period after they stop working for the defence ministry or the procurement agency.

For example, many countries define as a conflict of interest the case, when a defence official—civilian or military—starts working for or receives benefits in other ways from a defence supplier for a period of one, two or more years after they stop working for the government.[9] This rule is usually applied not only to officials that have dealt with contracting per se but also to civil servants and military officers that have had a role in the whole acquisition process – from definition of requirements to assessment of the quality of the product or service delivered.

Soft regulations on individual integrity also contribute to the reduction of corruption risks. Codes of ethics, considered in this group of measures, are applied both by governmental organisations and defence suppliers.

Another measure in between the hard and soft measures is the encouragement or requirement that people who have information on corrupt behaviour in the performance or the award of a government contract report it to the authorities. That encouragement goes hand in hand with regulations that provide for protection of such "whistleblowers."

Box 7.7 provides information on US regulations that make ethics programmes, training, reporting and whistleblower protection mandatory for all defence contractors. Similar reporting requirements also apply to state employees, with a provision that any case of reporting—by mail, online or phone—would be anonymous and non-traceable

[9] For one such highly publicized case, as well as the reaction of the contractor and the government see www.iasa.com.au/folders/Publications/Legal_Issues/unethicalboeing.html or www.huizenga.nova.edu/6240/cases/Boeing_AirForceEthicsScandal.htm. For the reaction in Congress, see www.defense-aerospace.com/article-view/verbatim/49262/mccain-exposes-usaf-role-in-tanker-lease.html.

Box 7.7. US Federal Acquisition Regulation on Contractor Ethics Programs

Even before 2007, US defence regulations required that contractors adhere to the highest degree of integrity and honesty. Specifically, defence regulations provided that contractors should have: (1) a written code of ethical conduct; (2) ethics training for all employees; (3) periodic reviews of compliance with their code of ethical conduct; (4) internal audits, external audits, or both; (5) disciplinary action for improper conduct; (6) timely reporting to appropriate government officials of any suspected violation of law regarding government contracts; and (7) full cooperation with any government agencies responsible for either investigation or corrective action. While defence regulations provided that contractors should have such elements, they were not mandatory.

With its two amendments in 2007 and 2008, the Federal Acquisition Regulation (FAR) mandated and amplified contractor ethics program rules. Defence regulations now require government contractors to have written codes of business ethics and ethics compliance training programs for contractor employees and to post "fraud hotline" posters at contractor work sites to encourage contractor employees to report fraudulent activity in connection with performance and award of government contracts.

In addition, the amended FAR contractor ethics rules now cover wartime contracting, e.g. in Iraq and Afghanistan, and require contractors to disclose violations of criminal law involving fraud, conflicts of interest, bribery or gratuity violations or violations of the civil False Claims Act in connection with the award or performance of government contracts and subcontracts. It should be noted that these requirements are implemented by contract clause and are mandatory. Amended rules also subject contractors to suspension and debarment from government contracting for knowingly failing to disclose such violations and failing to disclose receipt of overpayments on government contracts in a timely manner.

The FAR requires that each contractor establishes internal control systems for:

- Facilitating discovery of improper conduct;
- Ensuring that corrective measures are promptly carried out;
- Otherwise promoting an organizational culture that encourages ethical conduct and a commitment to compliance with the law.

Since January 2009, regulations of the Department of Defense (DOD) address protections for contractor employees who disclose information to government officials with regard to waste or mismanagement, danger to public health or safety, or violation of law related to a DOD contract or grant. Specifically, an employee may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to the government information concerning contract-related violations. Also, contractors are obliged to inform their employees in writing of these federal whistleblower rights and protections.

Source: United States Government Accountability Office, *Defense Contracting Integrity: Opportunities Exist to Improve DOD's Oversight of Contractor Ethics Programs*, GAO-09-591 (Washington, DC: United States Government Accountability Office, September 2009), 6–7 and 16.

if the reporting person wishes so. Posters of the US Department of Defense that advertise such reporting lines are included in Figure 7.1 below.[10]

In Poland—one of the countries that joined NATO relatively recently—every senior officer, except for military judges and prosecutors, for which general regulations for judges and public prosecutors are valid, and junior officers serving in a finance or logistics unit is obliged to fill in an assets disclosure form. The completed forms are not public and are controlled by the Military Police. Those who in the last three years of their military service have participated in procurement processes—broadly understood to include planning, preparing and implementing the tendering procedure, or implementing the contract—cannot take up a job in a defence company. Defence companies are those that produce or offer defence goods, services or construction, and it does not matter whether they have participated in MoD tenders or not.[11]

Integrity Pacts

The final focus in the examination of how procurement-related corruption risks can be addressed is on the multi-agency, multinational frameworks and the use of outside observers of procurement processes.

Government-to-industry relationships, as well as international cooperation among defence industries, are bound to lead to international anti-corruption consortia and associated codes of conduct. Such consortia are exerting pressure for stronger anti-corruption requirements in the global regulatory framework with the goal to achieve a "no-bribes" level playing field in the arms trade.

Figure 7.1: Posters for Anonymous Whistleblowers.

10 See www.dodig.mil.

11 Personal communication with Maciej Wnuk, 2 December 2008.

But since any long journey starts with small steps, countries embarking on the integrity building path may start with focused efforts, such as opening up a particular defence procurement case to outside scrutiny. Box 7.8 presents the experience with "Defence Integrity Pacts" – a tool developed by Transparency International specifically to counter procurement-related corruption risks and applied with increasing success throughout the world.

Box 7.8. Strengthening Major Acquisitions with "Defence Integrity Pacts"

In the 1990s, Transparency International developed the integrity pact as a tool governments can use to combat corruption at the tendering and contract stage of procurement. Transparency International's defence team has since developed this for application to defence procurements. The Defence Integrity Pact is a contract that binds bidders and buyers to non-bribery pledges on a specific procurement. Transparency International has pioneered their use in civilian sectors for some fifteen years now and they have become well-established in countries such as Mexico.

Defence Integrity Pacts bind all the bidders and the government together in a contract to reduce the possibility of corruption occurring prior to, during and after the tender. Usually they include pledges and undertakings by bidders not to offer and accept bribes, as well as pledges and undertakings by the governments including all their consultants and advisers. Bidders agree to withdraw from the tender if there is evidence of breach of the pledge, which may also involve further sanctions such as exclusion from bidding for subsequent contracts. Defence Integrity Pacts furthermore restrict government officials or their spouses from obtaining work at bidding firms for a set period after the bid and require disclosure of details of agents or intermediaries. What makes the tendering and contract process of Defence Integrity Pacts particularly transparent is the appointment of an independent monitor or monitoring team. The independent monitor is to be provided access to all meetings and unrestricted access to all documents. To be successful and trusted, only highly regarded persons with both in-country and external expertise should be selected as independent monitors, and their funding needs to be sufficiently secure for a long-term commitment.

Transparency International's defence programme has worked with the governments of Colombia and Poland to apply these pacts to major defence procurements. Defence Integrity Pacts need to be engaged at the earliest possible stage. They offer the potential for much greater transparency and because they improve contract documentation and oversight as well as evaluation, they can lead to better equipment specification and better value for money. Use of tools such as Defence Integrity Pacts can also serve as a catalyst for change for other organisations and ministries.

For more information on Defence Integrity Pacts in Colombia, see: M. Pyman, A. Waldron and L. Avelia, "Practical Implication of Defence Integrity Pacts. Experience in Columbia" (2006); Transparencia por Colombia and Transparency International UK, "An independent review of the procurement of military items" (2006). Both publications can be downloaded from www.defenceagainstcorruption.org.